

## IV. Rules for the Institution and Defence of Suits.

## D. Appeals.

In case of adverse decision Government Pleader to report whether he recommends an appeal.

**443. Rule 26.**—If the decision is either wholly or partially adverse to Government, the Government Pleader when forwarding copies of the decree and judgment to the Collector or other officer concerned, shall state his opinion, with reasons as to whether an appeal should be brought.

**Rule 27.**—The Collector or other officer, after perusing the judgment, shall call upon the Government Pleader to send him uncertified copies of such exhibits recorded in the case as he deems necessary to explain the grounds of the decision so far as it deals with the merits of the case (or, in important cases, of *all* the material exhibits), and shall forward them, together with the certified copies of the judgment and decree already received from the Government Pleader, with a report, stating his opinion as to whether the decision should be acquiesced in or appealed against, direct to the Remembrancer of Legal Affairs.

**Rule 28.**—This report must be despatched so as to reach the Remembrancer of Legal Affairs within *fifteen days* after the date of the decree, in cases in which an appeal lies to the District Judge, and within *one month* after the said date, in cases in which an appeal lies to the High Court.

**Rule 29.**—A copy of the report shall be sent simultaneously to the head of the department, who, if he concurs in it, will merely file it, but if he differs from it, or considers it otherwise necessary to address Government on the subject of it, shall submit a separate report on it without delay to Government through the Remembrancer of Legal Affairs.

**Rule 30.**—The Remembrancer of Legal Affairs, after calling for such further information, or additional papers, as he think necessary, shall report his opinion to Government as to whether an appeal should be made or not, or as to what other course should be pursued. His report must be despatched in time to enable the orders of Government upon it to be acted upon, if necessary, within the period prescribed by law for filing an appeal.

The report of the Collector or other officer, and, if any have been received, that of the head of the department also, should accompany the report of the Remembrancer of Legal Affairs to Government; but the rest of the papers should be retained by the Remembrancer of Legal Affairs, pending the orders of Government, unless for any reason he deems it necessary that any of them should be laid before Government.

**Rule 31.**—The report of the Collector, or other officer, and of the head of the department, if any, and all other documents which accompany the report of the Remembrancer of Legal Affairs to Government will be returned to him with the order of Government for record in his office.

## IV. Rules for the Institution and Defence of Suits.

D. APPEALS—*continued.*

*Rule 32.*—If an appeal be sanctioned, the Collector, or other officer, will instruct the Government Pleader in the District Court, or in the High Court, accordingly, at the same time sending him a *vakalatnāma* (unless the Government Pleader

Procedure if appeal is sanctioned. already holds a general power-of-attorney from him), if the suit is against him personally. If the appeal has to be made to the District Judge, the Remembrancer of Legal Affairs will return the copies received by him, under Rule 27, to the Collector or other officer, who shall make them over to the Government Pleader for his use in the Appeal. If the Appeal has to be made to the High Court, the said copies shall be sent by the Remembrancer of Legal Affairs direct to Government Pleader in that Court, and it shall be the duty of the Collector or other officer in consultation with the District Government Pleader to send to the Government Pleader in the High Court, with the least practicable delay, copies of all the remaining material, exhibits and other papers connected with the suit for his information and guidance.

*Rule 33.*—Appeals are ordinarily to be based strictly on the grounds recommended by the Remembrancer of Legal Affairs and concurred in by Government; but when an appeal is sanctioned generally against a decision the Government Pleader is responsible for availing himself of all legitimate grounds on which the decree may be open to objection, notwithstanding that any of them may have escaped the notice of the Remembrancer of Legal Affairs, or not have been mentioned by him.

In important or intricate cases the memorandum of appeal should be submitted to the Remembrancer of Legal Affairs for approval before being filed in Court.

*Rule 34.*—If an appeal is brought by the opposite party against a decision either entirely or partly in favour of Government, a notice of the appeal will be served by the Court either on the Government Pleader or on the officer concerned. In the former case the Government Pleader shall at once obtain an *uncertified* copy of the memorandum of appeal, and forward it and the notice received by him (with the date of its receipt noted on the back) to the Collector or other officer concerned or to the principal of the officers concerned. In the latter case the officer concerned shall at once send the Government Pleader a *vakalatnāma* (unless the Government Pleader already holds a general power-of-attorney from him) and obtain from him an *uncertified* copy of the memorandum of appeal.

*Rule 35.*—The Collector or other officer concerned shall then carefully compare the grounds of appeal with the Court's judgment, and after consultation, if necessary, with the District Government Pleader, report his opinion as to whether the appeal should be defended, and make any explanation or remarks that may be needed with reference to the grounds of appeal. His report should be submitted to the head of his department and be accompanied by the same documents as are required to accompany a report under Rule 27.

The Collector or other officer to report as to the defence.

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**IV. Rules for the Institution and Defence of Suits.**


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**D. APPEALS—concluded.**

*Rule 36.*—The head of the department shall refer the report, with his opinion, to the Remembrancer of Legal Affairs, and the provisions

Report to be referred by head of department to Legal Remembrancer. of Rules 30, 31 and 32 shall then apply *mutatis mutandis* to the said report and its accompaniments, and to the Remembrancer of Legal Affairs with regard to his duty in

respect thereof, and to the instruction of the Government Pleader, if the defence of the appeal is sanctioned by Government.

*Rule 37.*—The provisions of Rules 18, 19, 20 and 21 apply equally to the

Applicability of Rules 18, 19, 20 and 21 to appeals. conduct of appeals as to the conduct of original suits except

(1) that a discretion must be exercised by the Government Pleader in meeting new points raised for the first time in appeal, but that he should apply for an adjournment to enable him to advise with the officer concerned, or with the Remembrancer of Legal Affairs, if necessary, or any such points in which he may not have been fully instructed, or to which he is not able to furnish an immediate reply; (2) that it is only necessary to depute an officer to be present to assist the Government Pleader in the High Court when express orders are received from Government to that effect.

*Rule 38.*—When two or more officers of different departments are concerned in a case in which an appeal is desired on behalf of Government, or in which an appeal is brought by the opposite party, the foregoing duties will devolve on the principal of such officers, subject, as far as may be, to the provisions of Rule 14.

Procedure when two or more officers are concerned in an appeal case.

*Applicability of Rules 23, 24 and 25 to decisions in appeals.*

*Rule 39.*—When an appeal has been decided by a District Court, the provisions of the Rules 23, 24 and 25 shall be observed so far as they are applicable, just as in the case of the decision of an original suit.

**E. Second Appeals.**

**444. Rule 40.**—When an appeal from an original decree has been decided by a District Court, either wholly or partially adversely to Government, the same course is to be pursued with respect to the bringing of a second appeal as in the case of an appeal from an original decree, provided that if the

Remembrancer of Legal Affairs is clearly of opinion that the case is one in which the law allows no second appeal, it shall not be necessary for him to refer it for the orders of Government, and the result of the first appeal need not be communicated to Government, unless the head of the department, or the Remembrancer of Legal Affairs, is of opinion, for special reasons, that it should be. If the head of the department communicates the result of an appeal to Government under this rule, he shall submit his report to Government through the Remembrancer of Legal Affairs.

Procedure when a second appeal is brought against an appellate decree in favour of Government.

*Rule 41.*—When a second appeal is brought against an appellate decree either wholly or partly in favour of Government, the same course shall be pursued as when an appeal is brought in the High Court against a similar original decree.